

REMARKS

Claims 1, 3-11, 20 and 22-27 are pending.

Claims 6, 8 and 10 are allowed.

Claims 1, 3-5, 7, 9, 20, 23, and 25-27 are rejected.

Claim 24 was objected to.

Claim 1 has been cancelled.

Claims 4, 7, 9, 20, 22 have been amended to depend from allowed

Claim 6.

Claim 24 has been rewritten into independent form.

Claims 11, 23, 25 -27 have additionally been amended.

CLAIM REJECTIONS – 35 U.S.C. §112

Claims 1, 3, 4, 7, 9, 11, 20, 2, and 22-27 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In response, Claim 1 was cancelled, and Claims 4, 7, 9 20, and 22 were amended to depend from allowed Claim 6. Claim 24 has been amended to conform to the objection. Each is accordingly also allowable. Claims 11 has been amended to eliminate the offending language, and claims 25-27 have been amended to depend from Claim 11. Accordingly, each of the claims rejected under 35 U.S.C. §112, first paragraph is now allowable.

CLAIM REJECTIONS – 35 U.S.C. §112, second paragraph

Claims 1, 3, 4, 7, 9, 11, 20, and 22-27were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response, Claim 1 was cancelled, and Claims 4, 7, 9 20, and 22 were amended to depend from allowed Claim 6. Claim 24 has been amended to conform to the objection. Each is accordingly also allowable. Claim 11 has been amended to eliminate the offending language, and claims 25-27 have been

amended to depend from Claim 11. Accordingly, each of the claims rejected under 35 U.S.C. §112, second paragraph is now allowable.

Claims 1, 3, 4, 7, 9, 20, 22, 25, 26 and 27 are rejected under 35 U.S.C. §102(b) as being anticipated by Barney (US 723,977). In response, Claim 1 has been cancelled. Claims 4, 7, 9 20, and 22 were amended to depend from allowed Claim 6. Each is accordingly allowable. Claims 25-27 have been amended to depend from Claim 11, and each, accordingly is not subject to this rejection. Claim now 3 depends indirectly from Claim 6 and is allowable.

Claims 11 and 23 were rejected under 35 U.S.C. 102(b) as being anticipated by Barney (US 723,977). In response, Claim 11 has been amended to restate the limitation in the form of a drive mechanism that rotates the outside edge of the blending tool in excess of 50 feet per second. While Applicant earnestly believes that the tool in Barney is not capable of rotating at such speeds, Claim 11 has been amended to affirmatively claim that the speed of Applicant's invention in Claim 11 is in fact in excess of 50 feet per second. It is clear that nothing in Barney teaches or discloses such rotation speeds. Indeed, at column 1, lines 13-19, the specification in Barney makes clear that the blending machine in Barney is for *slow* agitation. This thus teaches directly away for Applicant's invention. Claim 11 and Claims 3, 22, 25-27 which depend from Claim 11 are accordingly allowable over Barney.

Claims 1, 3, 4, 7, 9, 20, 22, 25, 26 and 27 were rejected under 35 U.S.C. §102(b) as being anticipated by Deam (US 354,104). In response, Claim 1 has been cancelled. Claims 4, 7, 9 20, and 22 were amended to depend from allowed Claim 6. Each is accordingly allowable. Claim now 3 depends indirectly from Claim 6 and is allowable. Claims 25-27 have been amended to depend from Claim 11. Claim 11 has been amended to restate its limitation in the form of a drive mechanism that rotates the outside edge of the blending tool in excess of 50 feet per second. While Applicant earnestly believes that the tool in Deam is not capable of rotating at such speeds, Claim 11 has been amended to

affirmatively claim that the speed of Applicant's invention in Claim 11 is in fact in excess of 50 feet per second. It is clear that nothing in Deam teaches or discloses such rotation speeds. Indeed, the purpose of the agitator in Deam is to wash ore by separating metal particles from undesirable ore slurry. Tool speeds as claimed by Applicant would agitate the slurry to such a degree that such separation would not occur. Accordingly, Deam teaches away from Applicant's invention of Claim 11. Claim 11 and Claims 3, 22, 25-27 which depend from Claim 11 are accordingly allowable over Deam.

Claims 1, 3, 4, 5, 7, 9, 11, 20, 22, 23, 25, 26 and 27 were rejected under 35 U.S.C. §102(b) as being anticipated by Fickelscheer (US 619,018). In response, Claim 1 has been cancelled. Claims 4, 7, 9 20, and 22 were amended to depend from allowed Claim 6. Each is accordingly allowable. Claim now 3 depends indirectly from Claim 6 and is allowable. Claims 25-27 have been amended to depend from Claim 11. Claim 11 has been amended to edge of the blending tool in excess of 50 feet per second. While Applicant earnestly believes that the tool in Fickelscheer is not capable of rotating at such speeds, Claim 11 has been amended to affirmatively claim that the speed of Applicant's invention in Claim 11 is in fact in excess of 50 feet per second. It is clear that nothing in Fickelscheer teaches or discloses such rotation speeds. Indeed, the purpose of the stirrer in Fickelscheer is to stir material such that it moves up and down in the mixture by virtue of the curvature of the stirring elements. Such stirring motion for "cocoa, tea, coffee, succedaneum matter, or clay" (column 1, lines 9-10) does not require the speeds necessary for high-speed blending. Moreover, the blending machine described in Fickelscheer contemplates a drive mechanism such "belt-pulleys". Column 1, line 29. Such a drive means is not capable of rotating the stirrers shown in Figures 1 and 2 through cocoa, etc. at speeds approaching 50 feet per second. Accordingly, Fickelscheer teaches away from Applicant's invention of Claim 11. Claim 11 and Claims 3, 22, 25-27 which depend from Claim 11 are accordingly allowable over Fickelscheer.

Applicant notes that Claim 5 is also rejected under 35 U.S.C. §102(b) as being anticipated by Fickelscheer. This is a new rejection since the prior Advisory Action dated September 9, 2003 and the preceding Final Action dated August 14, 2003 had objected to Claim 5 but had stated that such claim would be allowable over the art then of record. In response to the new rejection under Fickelscheer, Applicant notes that Claim 5 requires a collision plate spaced apart from the shank. The long a curved stirrers taught by Fickelscheer do not constitute collision plates and are not spaced apart from the Fickelscheer shank. Accordingly, Fickelscheer cannot support a rejection of Claim 5 under 35 U.S.C. §102(b).

Claims 1, 3, 4, 7, 9, 11, 20, 22, 23, 25, 26 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Barney (US 723,977). See argument above pertaining to 35 U.S.C. §102(b).

Claims 1, 3, 4, 7, 9, 11, 20, 22, 23, 25, 26 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Deam (US 354,104). See argument above pertaining to 35 U.S.C. §102(b).

Claims 1, 3, 4, 5, 7, 9, 11, 20, 22, 23, 25, 26 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fickelscheer (US 619,018). See argument above pertaining to 35 U.S.C. §102(b).

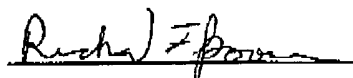
ALLOWABLE SUBJECT MATTER

Claim 24 was objected to as being dependent upon a rejected base claim. Accordingly, Claim 24 has been rewritten in independent form.

Claim 6, 8 and 10 stand allowed.

Accordingly, in view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw this rejection. Also, an early indication of allowability is earnestly solicited. Entrance of this amendment as well as reconsideration and allowance of the claims remaining are therefore respectfully requested.

Respectfully submitted,



Richard F. Spooner
Attorney For Applicants
Registration No. 43,928
Telephone (585) 423-5324

RFS/hp
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Xerox Corporation
Xerox Square 20A
Rochester, New York 14644